

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

490H0317

HOUSE BILL NO. 1169

Introduced by: Representatives Peterson (Bill), Bartling, Broderick, Brown (Jarvis), Brown (Richard), Duenwald, Duniphan, Fryslie, Madsen, McCoy, Michels, Olson (Mel), Pederson (Gordon), Sebert, and Valandra and Senators Diedrich (Larry), Albers, Diedrich (Elmer), Duxbury, Hutmacher, Moore, Munson, Olson (Ed), Staggers, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding disclosure statements
2 for motor vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The department shall indicate on the certificate of title whenever a title presented to the state
7 indicates that the motor vehicle which was previously issued a title that bore any word or symbol
8 signifying that the vehicle was salvage, un-rebuildable, parts only, scrap, junk, nonrepairable,
9 reconstructed, rebuilt, or any other symbol or word of like kind or meaning, or that it has been
10 damaged by flood, and the name of the state that last issued title.

11 Section 2. That § 32-3-1 be amended by adding thereto a NEW SUBDIVISION to read as
12 follows:

13 "Salvage vehicle," any motor vehicle that is damaged to the extent of seventy-five percent



1 or more of its retail value as determined by the National Automobile Dealers' Association Official
2 Used Car Guide in effect at the time of the damage.

3 Section 3. That § 32-3-51.7 be amended to read as follows:

4 32-3-51.7. Each certificate of title issued by the department shall ~~contain the following~~
5 ~~phrase: South Dakota state law requires the disclosure of damage on motor vehicles. This~~
6 ~~information is available upon written request from the Department of Revenue, Division of~~
7 ~~Motor Vehicles. Each certificate of title shall also contain on its front a statement as to whether~~
8 ~~previous damage disclosure statements indicate the motor vehicle had been damaged at one time~~
9 ~~in excess of three thousand dollars as provided by~~ carry the word, salvage, on the front if the
10 disclosure statement indicates that the motor vehicle meets the disclosure requirements of § 32-
11 3-51.8.

12 Section 4. That § 32-3-51.8 be amended to read as follows:

13 32-3-51.8. Upon the sale, transfer, or trade-in of a motor vehicle, or if licensing a motor
14 vehicle in South Dakota which is titled in another state or jurisdiction, the seller, transferor,
15 trader, or person wishing to license in South Dakota the motor vehicle which is titled in another
16 state or jurisdiction shall ~~submit an accurately completed damage disclosure statement when~~
17 ~~applying for a certificate of title pursuant to § 32-3-18~~ disclose whether the motor vehicle has
18 incurred damage requiring disclosure under section 2 of this Act. The ~~completed damage~~
19 disclosure statement may be on the back of the certificate of title or on a separate document that
20 has been approved for use by the department. Except as otherwise provided by this section, no
21 certificate of title may be issued by the department unless the ~~damage~~ disclosure statement
22 accompanies the application. It is a Class 1 misdemeanor to intentionally falsify any information
23 on the ~~damage~~ disclosure statement. No person or dealer is liable to a subsequent owner of a
24 vehicle because a prior owner of the vehicle failed to disclose that the vehicle had previously

1 been damaged and repaired. This section does not apply to motor vehicles more than nine model
2 years old or with a gross vehicle weight rating of more than sixteen thousand pounds and does
3 not apply if a rebuilt title or junking certificate is sought.

4 ~~— This section does apply to all other motor vehicles, but only damage in excess of three~~
5 ~~thousand dollars shall be disclosed in the statement. If the motor vehicle has incurred damages~~
6 ~~more than once, only those damages which occurred at one time would be considered in~~
7 ~~determining whether the damages exceeded three thousand dollars.~~

8 Section 5. That § 32-3-51.9 be amended to read as follows:

9 32-3-51.9. For the purposes of the ~~damage~~ disclosure statement provided by § 32-3-51.8,
10 "~~damage~~" is disclosure is required for damage to the motor vehicle caused by fire, vandalism,
11 collision, weather, submersion in water, or flood, and does not include normal wear and tear,
12 glass damage, mechanical repairs, or electrical repairs that have not been caused by fire,
13 vandalism, collision, weather, submersion in water, or flood.

14 Section 6. That § 32-3-51.11 be amended to read as follows:

15 32-3-51.11. The department shall retain each ~~damaged~~ disclosure statement received. The
16 statement shall become part of the title history available to the public pursuant to § 32-3-30.2.

17 Section 7. That § 32-3-51.14 be amended to read as follows:

18 32-3-51.14. The department shall prescribe, pursuant to chapter 1-26, the format for the
19 ~~damage~~ disclosure statement provided by § 32-3-51.8. An area for a ~~damage~~ disclosure
20 statement shall appear on the back of each certificate of title issued by the department. The
21 department may also approve separate documents on which a ~~damage~~ disclosure statement may
22 be submitted. The ~~damage~~ disclosure statement form shall indicate whether the motor vehicle has
23 been damaged ~~such that it cost more than three thousand dollars to repair to its predamaged~~
24 ~~condition~~ to the extent of seventy-five percent or more of its retail value as determined by the

1 National Automobile Dealers' Association Official Used Car Guide in effect at the time the
2 damage occurred and shall indicate any other damage information the department deems
3 appropriate. If a separate document from the certificate of title contains the ~~damage~~ disclosure
4 statement, the document shall also require the following information: year, make, model, and
5 vehicle identification number of the motor vehicle.

6 Section 8. That § 32-3-51.15 be amended to read as follows:

7 32-3-51.15. The dollar amount of damage to a motor vehicle required to be disclosed
8 pursuant to § 32-3-51.8 shall include the costs necessary to return the damaged motor vehicle
9 to its predamaged condition. Such costs include parts, labor, paint, and frame work done on the
10 damaged motor vehicle. The amount of damage to a motor vehicle is determined by adding the
11 retail value of all labor, parts, and material used in repairing the damage. If the retail value of
12 labor has not been determined by a purchase in the ordinary course of business (for example, the
13 labor is performed by the owner of the vehicle), the retail value of the labor is presumed to be
14 the product of the repair time, as provided in a generally accepted autobody repair flat rate
15 manual, multiplied by ~~thirty-five~~ forty dollars.

16 Section 9. That § 32-3-51.16 be repealed.

17 ~~—32-3-51.16. The department shall place the damage information pursuant to § 32-3-51.7 on~~
18 ~~the first South Dakota title and all subsequent titles issued for any motor vehicle which came into~~
19 ~~the state unrepaid and for which a salvage certificate of title was issued by another state unless~~
20 ~~the person applying for the South Dakota title maintains at his place of business proof that the~~
21 ~~vehicle did not sustain damage equivalent to the amount set forth in this chapter. The proof shall~~
22 ~~include two photographs showing all four sides of the motor vehicle and either an insurance~~
23 ~~adjuster's written report or a written repair estimate which details the parts, labor, paint, and~~
24 ~~frame work required to repair the motor vehicle.~~

1 ~~The photographs and other documents showing proof that the amount of damage is less than~~
2 ~~set forth in this chapter shall be maintained by the person applying for a title for at least two~~
3 ~~years.~~

4 Section 10. That chapter 32-3 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Upon receipt of the title or prescribed form, the department shall issue a title based upon the
7 answers to the disclosure questions. Any dispute arising from disclosure is a civil matter between
8 the seller and purchaser.